

MEMORANDUM ORDER NO. 22

APPROVING THE USE OF P155 MILLION (PLUS ACCRUED INTEREST) FROM THE SPECIAL FUND OF THE DEPARTMENT OF ENERGY FOR THE SECURITY AND PROTECTION OF THE CAMAGO-MALAMPAYA NATURAL GAS PROJECT AND THE IMPLEMENTATION OF THE ELECTRIC POWER INDUSTRY REFORM ACT OF 2001

WHEREAS, pursuant to Section 8 of Presidential Decree No. 910 dated March 22, 1976, as amended, a Special Fund was created to finance energy resource development and exploitation programs and projects of the Government and such other purposes as may be directed by the President;

WHEREAS, in a Memorandum of Agreement dated May 31, 1995, the Department of Energy transferred an amount of P178 million from the Special Fund to the Department of National Defense to fund the construction of benchmarks and lighthouses in the Kalayaan Islands Group;

WHEREAS, the said amount of P178 million was reduced to P155 million when the amount of P23 million was remitted to the National Mapping and Resource Information Authority to fund the acquisition of Satellite Imagery of the Kalayaan Islands Group, Hydrographic/Geophysical and Geotechnical Boring at the Nares Bank, Marie Louise and Baybayin Dagat Shoal (Kalayaan Islands Group), production of nautical maps, charting and mapping of said area;

WHEREAS, the proposed construction of lighthouses was suspended in the light of the Department of Foreign Affairs Guidelines for the Philippine Actions on the South China Sea resulting from the RP-PROC Bilateral Talks in Manila on August 9 to 10, 1997;

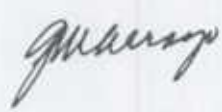
WHEREAS, under the terms of a Memorandum of Agreement dated July 17, 2001, the Department of Energy and the Department of National Defense have agreed to use the remaining P155 million (plus accrued interest) for the security and protection of the Camago-Malampaya Natural Gas Project and the implementation of the Electric Power Industry Reform Act of 2001;

WHEREAS, said Memorandum of Agreement dated July 17, 2001, was found to be in accordance with existing budgetary rules and regulations by the Department of Budget and Management as stated in its letter dated July 19, 2001.



NOW, THEREFORE, I, GLORIA MACAPAGAL-ARROYO, President of the Philippines, by virtue of the powers vested in me by law and upon the recommendation of the Secretary of Energy and the Secretary of National Defense, hereby approve the use of P155 million (plus accrued interest) from the Special Fund created under Section 8 of Presidential Decree No. 910, as amended, for the protection and security of the Camago-Malampaya Natural Gas Project and the implementation of the Electric Power Industry Reform Act of 2001, in accordance with the Memorandum of Agreement executed by and between the Department of Energy and the Department of National Defense on July 17, 2001, hereto attached as Annex "A", subject to the pertinent accounting and auditing rules and regulations of the Commission on Audit and applicable laws.

City of Manila, July 26, 2001.



By the President:



ALBERTO G. ROMULO
Executive Secretary

PMS LIBRARY

Received

AUG 10 2001

Date



PGWA Outgoing # 03922



PMS LIBRARY BCODE002246

MEMORANDUM OF AGREEMENT

KNOW ALL MEN BY THESE PRESENTS:

This MEMORANDUM OF AGREEMENT is entered into by and between:

The DEPARTMENT OF ENERGY (DOE), a government department agency, with office address at Fort Andres Bonifacio, Taguig, Metro Manila, represented herein by its Secretary, **VINCENT S. PEREZ, JR.**, hereinafter referred to as the FIRST PARTY

-and-

The DEPARTMENT OF NATIONAL DEFENSE (DND), another government department agency, with office address at Camp General Emilio Aguinaldo, Quezon City, Metro Manila represented herein by its Secretary, **ANGELO T. REYES**, hereinafter referred to as the SECOND PARTY.

WITNESSETH: THAT

WHEREAS, the FIRST PARTY transferred, from its Special Account, to the SECOND PARTY the amount of ONE HUNDRED SEVENTY EIGHT MILLION PESOS (P 178,000,000.00) to fund the Kalayaan Islands Group (KIG) projects, specifically for the purpose of constructing benchmarks and lighthouses in the said area, as shown by a Memorandum of Agreement executed by the parties herein on 31 May 1995;

WHEREAS, said amount of P178 million was reduced to ONE HUNDRED FIFTY FIVE MILLION PESOS (P 155,000,000.00) when the amount of TWENTY THREE MILLION PESOS (P 23,000,000.00) out of the said amount of P 178 million was remitted to the NATIONAL MAPPING AND RESOURCE INFORMATION AUTHORITY (NAMRIA) to fund the acquisition of Satellite Imagery of Kalayaan Islands Group, Hydrographic/Geophysical and Geotechnical Boring at the Nares Bank, Marie Louise and Baybayin Dagat Shoal (Kalayaan Islands Group) production of nautical maps, charting and mapping of said area, as shown by an undated Memorandum of Agreement by the First Party and NAMRIA;

WHEREAS, the proposed construction of the lighthouses was suspended in the light of Department of Foreign Affairs (DFA) Guidelines for the Philippine Actions on the South China Sea resulting from the RP-PROC Bilateral Talks in Manila on 9-10 August 1997 which specifically provides in paragraph 2 thereof, that, "On the proposed construction of lighthouses, the meeting agreed on the desirability of seeking the views of other claimant countries who are members of ASEAN before deciding on future courses of action", as shown by an undated Memorandum of Capt. Raul P. Barcillo (PN(GSC)), addressed to the Chief of Staff, Armed Forces of the Philippines;

WHEREAS, the Office of the Chief of Staff of the Armed Forces of the Philippines declared that the Philippine Navy had properly recorded all transactions pertaining to the abovementioned P 155 million funds transferred by the FIRST PARTY to the SECOND PARTY, through the GHQ-AFP (Philippine Navy) for the construction of benchmarks and lighthouses in the Kalayaan Islands Group, as shown by a letter, dated 12 January 2001 from the Office of the Chief of Staff, AFP

WHEREAS, It is necessary to provide sufficient funds for the security and protection of the Camago-Malampaya Natural Gas Project under Service Contract No. 38 between the FIRST PARTY and Shell Philippines Exploration B.V. (SPEX) and for the implementation of R.A. 9136, otherwise known as the Electric Power Industry Reform Act of 2001;

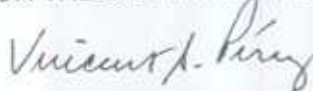
NOW, THEREFORE, for and in consideration of the foregoing premises, the parties hereby agree on the following terms and conditions, to wit:

1. The said amount of P155 million shall be utilized for the following purposes:
 - a. P100 Million – This amount shall be retained by the SECOND PARTY for the purchase of necessary military equipment, materials and other assets for the protection and security by the Philippine Air Force and Philippine Navy of the Camago-Malampaya Natural Gas Project under SC No. 38 between the FIRST PARTY and SPEX; and
 - b. P55 Million – This amount shall be returned by the SECOND PARTY to the FIRST PARTY to be deposited by the latter in a separate Trust Account for the implementation of said R.A. 9136, known as the Electric Power Industry Reform Act of 2001.
2. The SECOND PARTY shall submit to the FIRST PARTY the work and cash programs, which shall serve as the bases for the disbursements or use of the above-mentioned amount of P100 million.
3. The disbursements and liquidation of funds shall be made in accordance with the provisions of Commission on Audit Circular No 94-013, dated 13 December 1994 and other applicable accounting and auditing rules and regulations.
4. The total amount of interests earned by the said amount of P155 million from the time it was deposited with the bank as a Trust Account shall be remitted by the SECOND PARTY to the FIRST PARTY together with the amount of P55 million mentioned in Item 1.b. above

This MEMORANDUM OF AGREEMENT shall take effect on the date of its execution by the parties and shall cause the SECOND PARTY to return the said amount of P55 million together with the interests earned as mentioned in Item 4 above immediately to the FIRST PARTY.

IN WITNESS WHEREOF, the parties have hereunto set their hands this 17th day of July, 2001 at Manila.

FOR THE DEPARTMENT OF ENERGY



VINCENT S. PEREZ, JR.
Secretary

FOR THE DEPARTMENT OF
NATIONAL DEFENSE



ANGELO T. REYES
Secretary

Approved: